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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1748**

**The Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004**

**Amount and payment of direct payments**

6.—(1) Subject to paragraphs (3) and (4), a direct payment shall be made as a gross payment<sup>(1)</sup> unless the responsible authority decide it shall be made as a net payment<sup>(2)</sup>.

(2) For the purpose of making the payment referred to in paragraph (1), the responsible authority shall determine, having regard to the prescribed person's means, what amount or amounts (if any) it is reasonably practicable for him or her to pay towards securing the provision of the relevant service (whether by way of reimbursement as mentioned in section 57(4) of the 2001 Act or by way of a contribution as mentioned in section 57(5) of that Act)<sup>(3)</sup>.

(3) Where the relevant service is one which, apart from these Regulations, would be provided under section 117 of the 1983 Act (after-care) —

(a) the payment shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act; and

(b) subsection (4)(b) of that section shall not apply.

(4) Where a direct payment is made to a person falling within section 17A(5) of the 1989 Act<sup>(4)</sup> —

(a) the payment shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act<sup>(5)</sup>; and

(b) subsection (4)(b) of that section<sup>(6)</sup> shall not apply.

(5) A direct payment may be paid to —

(a) the prescribed person; or

(b) a person nominated by him or her to receive the payment on his or her behalf.

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<sup>(1)</sup> See section 57(4) of the 2001 Act for the definition of "gross payments".

<sup>(2)</sup> See section 57(5) of the 2001 Act for the definition of "net payments".

<sup>(3)</sup> Section 17A(3) of the 1989 Act applies sections 57(3) to (5) and (7) of the 2001 Act to regulations made under section 17A of the 1989 Act.

<sup>(4)</sup> A person falls within section 17A(5) if he or she has parental responsibility for a disabled child aged 16 or 17 or is a disabled person with parental responsibility for a child of that age or is in receipt of income support, working families tax credit or disabled person's tax credit.

<sup>(5)</sup> The rate mentioned in section 57(4)(a) is such rate as the authority estimate to be equivalent to the reasonable cost of securing the provision of the service concerned.

<sup>(6)</sup> Section 57(4)(b) permits an authority to make gross direct payments subject to the condition that the payee pays to the authority, by way of reimbursement, an amount or amounts determined under the regulations.